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8
9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2010-422

14 **SANTIAGO NUNEZ, aka**
15 **SANTIAGO RIVAS NUNEZ**
16 **989 N. Elder Wood**
Porterville, CA 93257

ACCUSATION

17 **Registered Nurse License No. 684198**

18 Respondent.

19 Complainant alleges:

20 **PARTIES**

21 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her
22 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
23 of Consumer Affairs.

24 **License History**

25 2. On or about July 21, 2006, the Board of Registered Nursing issued Registered Nurse
26 License Number 684198 to Santiago Nunez, also known as Santiago Rivas Nunez
27 "(Respondent)". The license was in full force and effect at all times relevant to the charges
28 brought herein and will expire on August 31, 2010, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code"), unless otherwise indicated.

4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Code section 118, subdivision (b), provides that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY PROVISIONS

7. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

8. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

1 (c) Be convicted of a criminal offense involving the prescription,
2 consumption, or self administration of any of the substances described in
3 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
4 record pertaining to, the substances described in subdivision (a) of this section,
5 in which event the record of the conviction is conclusive evidence thereof.

6 COST RECOVERY

7 9. Code section 125.3 provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licentiate found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 FIRST CAUSE FOR DISCIPLINE

12 (Criminal Conviction)

13 10. Respondent is subject to disciplinary action under Code section 2761, subdivision (f),
14 in that on or about July 13, 2009, in the Superior Court of the State of California, County of
15 Tulare, in the case entitled, *People of the State of California v. Santiago Rivas Nunez* (Super Ct.
16 Tulare County, 2009, Case No. PCM223921), Respondent was convicted on his plea of no
17 contest of violating Vehicle Code sections 23152, subdivision (a) (Drive While Under the
18 Influence of an Alcoholic Beverage or any Drug or Under Their Combined Influence) and
19 subdivision (b) (Drive While Having .08% or Higher Blood Alcohol [.22%], with Special
20 Allegation of two counts of Vehicle Code section 23578 (Over .15% Blood Alcohol), all
21 misdemeanors. Such crimes are substantially related to the qualifications, functions, and duties of
22 a registered nurse.

23 The circumstances of the crime are that on June 12, 2009, a California Highway Patrol
24 police officer observed Respondent driving erratically. After stopping the vehicle, the officer
25 observed Respondent to have signs and symptoms of intoxication. After Respondent failed the
26 field sobriety tests, Respondent was transported to Sierra View District Hospital for a blood test
27 and then was transported to the Tulare County Sheriff's substation for booking.

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1 d. On or about April 7, 1997, in the Municipal Court of California, County of Tulare, in
2 the case entitled, *People of the State of California v. Santiago Nunez* (Muni Ct., Tulare County
3 Porterville Division, 1997, Case No. PCR-086006-A), Respondent was convicted on his plea of
4 guilty of violating Vehicle Code section 23152, subdivision (b) (Drive While Having B.A.C. of
5 .08% or More), a misdemeanor.

6 **PRAYER**

7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
8 and that following the hearing, the Board of Registered Nursing issue a decision:

9 1. Revoking or suspending Registered Nurse License Number 684198 issued to
10 Santiago Nunez, also known as Santiago Rivas Nunez;

11 2. Ordering Santiago Nunez, also known as Santiago Rivas Nunez to pay the Board the
12 reasonable costs of the investigation and enforcement of this case, pursuant to Code section
13 125.3; and,

14 3. Taking such other and further action as deemed necessary and proper.

15
16 DATED: 3/11/10

Stacie Benson
for LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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